

1998 EPA Enforcement and Compliance Assurance Highlights

I. Enforcement

A. Civil Enforcement Cases

Multimedia

Shell Oil Company

The Shell Oil Company will pay to expand water quality and wildlife protection on the Mississippi River as part of an agreement to resolve hundreds of environmental violations at Shell's Wood River oil refiners (near St. Louis), Shell will achieve and certify compliance with all environmental laws at the Refinery, perform supplemental environmental projects valued at over \$10 million and pay \$1.5 million in civil penalties – \$500,000 of which will be paid to the U.S. co-plaintiff, the State of Illinois. Environmental problems at Wood River included: illegal levels of sulphur dioxide and hydrogen sulfide emissions, violations of the emissions standards for the carcinogen benzene, violation of solid waste labeling, reporting and manifesting requirements and untimely reporting of emissions of extremely hazardous substances such as ammonia and chlorine. One of the supplemental environmental projects requires Shell to expand water quality and wildfire protection on the Mississippi River. Shell will purchase \$500,000 worth of land adjacent to the Mississippi River and must then transfer ownership of that property to the state of Illinois. The land must be appropriate for wetlands preservation, water quality protection and wildlife conservation purposes. Another project will reduce air emissions of sulphur dioxide by 770 tons per year and nitrogen oxides by 940 tons per year. This settlement is among the more than 100 enforcement cases that make up the EPA-Department of Justice Mississippi River Initiative

ASARCO

In a precedential settlement, EPA reached an agreement with ASARCO, Inc. that requires the national mining and smelting company to spend in excess of \$50 million to resolve and correct hazardous waste and water violations at two of its facilities in Montana and Arizona. This historic agreement marks the first time the federal government has entered into a consolidated settlement that resolves violations of different environmental statutes at more than one of a company's facilities. It is also the first time that a company has agreed to establish a court-enforced environmental management system (EMS) that is applicable at all of its active facilities nationwide. In ASARCO's case, the EMS covers 38 operating facilities with over 6,000 employees in seven states. The company also will pay \$6.38 million in civil penalties. The two settlements making up the agreement will reduce the disposal of toxic heavy metals such as mercury, lead, and arsenic, a known human carcinogen. In the Montana case, the United States alleged that ASARCO's East Helena facility illegally discharged industrial wastewater into a process pond where it leached into a nearby creek, and illegally stored, treated and disposed of toxic heavy metals, possibly contaminating soil and groundwater. In the Arizona case, the United States and the State of Arizona alleged that ASARCO illegally discharged toxic metals at its Ray Mine Complex near Kelvin, failed to properly contain wastewater run-off, and violated state surface water quality standards.

Clean Air Act

Ford Motor Company

The Ford Motor Company will pay approximately \$8 million to settle government charges that it installed an illegal defeat device on 60,000 1997 Econoline vans. The device, while marginally improving fuel economy, results in nitrogen oxide emissions (NOx) well in excess of legal limits when the vans are driven at highway speeds. Ford is required to recall all of the affected Econolines (estimated cost of \$1.5 million) and to pay \$2.5 million in fines. Ford is also required to purchase 2,500 tons of nitrogen oxide credits (valued at roughly \$2.5 million), and commit \$1.5 million to other projects designed to compensate for total excess tailpipe emissions from these vehicles. The settlement will prevent thousands of additional tons of nitrogen oxide (NOx) from being released into the atmosphere. Nitrogen oxides, which are precursors to ozone formation and to acid rain, cause significant health and environmental problems, including at the earth's surface. The violation was discovered during testing at EPA's Ann Arbor, Mich., laboratory. Upon learning that their fuel devices may have been in violation of the Clean Air Act, Ford voluntarily stopped sale of the 1997 Econolines in March last year until the device could be removed. The company also implemented a special service campaign to remove the device from vans already sold.

American Honda

EPA, DOJ and the California Air Resources Board announced that American Honda Motor Co., Inc. would spend \$267 million, including a \$10.1 million civil penalty and an estimated \$1 million in SEPs, to settle allegations that it violated the Clean Air Act by selling vehicles with partially disabled emission control diagnostic systems. The United States alleged that Honda disabled the misfire monitoring function on 1.6 million 1996 and 1997 model year Accords, Civics, Preludes, Odysseys, and Acuras, as well as 1995 Honda Accord V-6, Acura 2.5TL, and Acura NSX models. The United States also alleged that Honda failed to report this fact when applying for Certificates of Conformity, which allow for vehicles to be legally sold if they meet federal emission standards. The misfire monitoring device is part of an enhanced computer system, known as the On-Board Diagnostic System ("OBD"), which checks a vehicle's emission performance when the vehicle is in use. Since the misfire device is disabled, the system's malfunction indicator light will not alert the vehicle's owner to that problem. Because the vehicle's owner is unaware that the engine needs to be serviced, increased exhaust emissions of hydrocarbons and damage to the vehicle's catalyst may occur.

Terra International, Inc.

Terra International, Inc., and Terra Industries Inc., of Sergeant Bluff, Iowa, will pay a penalty of \$500,000 to settle claims that the companies violated the Clean Air Act, the Emergency Planning and Community Right-to-Know Act (EPCRA); and the Comprehensive Environmental Response and Recovery Act (CERCLA). . The claims resulted from a 1994 explosion at Terra's Port Neal, Iowa, ammonium nitrate plant which killed four workers, injured 18, and forced evacuation of more than 2,500 nearby residents. The explosion released approximately 4,200 tons of anhydrous ammonia and 100 tons of nitric acid. All violations were uncovered during investigations following the explosion.</P> The company also will pay \$150,000 to reimburse past response costs and spend approximately \$100,000 on supplemental

environmental projects (SEPS), including improved hazardous materials planning and preparedness projects in the Sergeant Bluff area, such as installing emergency sirens and equipping local fire departments with anhydrous ammonia monitors. The consent decree is the first settlement of a CAA Section 112(r) action in the nation for a company's alleged violation of the "general duty" clause. Section 112(r) states that owners and operators of facilities producing extremely hazardous substances have a general duty to identify hazards; design and maintain a safe facility; and minimize accidental releases. The EPA complaint alleged Terra violated the Section 112 by failing to submit required Toxic Release Inventory (TRI) information to EPA in a timely manner for the manufacture, process, or otherwise use of more than 17 million pounds of more than 17 million pounds of six toxic chemicals (ammonia, ammonium nitrate, nitric acid, chlorine, formaldehyde, and methanol) during the 1994 reporting year and failing to timely report a hazardous substance release to several response authorities in the aftermath of the explosion, including the Omaha Tribal Emergency Response Commission.

Campbell Soup

Campbell Soup Company agreed to pay a \$1,215,000 penalty to settle Clean Air Act violations at the firm's Sacramento, California can manufacturing facility, which was purchased by Silgan Can Company in June 1998. The penalty is the second largest ever obtained by U.S. EPA in California under the Clean Air Act. EPA alleged that when Campbell Soup owned and operated the facility the company modified its three-piece can lines without obtaining the required permits, failed to install the required air pollution control equipment, and failed to provide offsets for its emissions increases at the facility. The failure to have the proper pollution controls resulted in excess emissions of smog-forming volatile organic compounds (VOCs) during the can manufacturing process in Sacramento County, which is classified as a "severe" area for ground-level ozone or smog. As part of the settlement, Silgan has agreed to interim limits on its emissions and to shut down its three-piece can lines by August 1, 2000. The settlement agreement also establishes annual VOC emission limits for the three-piece can lines that are approximately one-third of the current permitted levels. In addition, the agreement requires Campbell to forfeit emission credits for the equipment at issue in EPA's enforcement action, which averaged between 40 and 75 tons per year of VOC emissions. Finally, Campbell is required to donate up to 32.7 tons of emissions credits, worth approximately \$588,600, from the shut down can lines to Environmental Resources Trust Inc., which was established by the Environmental Defense Fund to hold air emissions credits for the benefit of the environment.

Clean Water Act

Hudson Foods

Hudson Foods Inc. will spend \$2 million in pollution controls at poultry farms and processing facilities throughout the Delmarva region as well as pay an additional \$4 million penalty to settle charges over alleged water pollution from its poultry processing and rendering plant in Berlin, Md. Hudson, which became a subsidiary of Tyson Foods Inc., after the alleged violations took place, will implement several pollution control projects at Hudson and Tyson food processing plants and farms located throughout the region. Hudson's Berlin plant repeatedly discharged wastewater with illegal levels of fecal coliform, phosphorus, nitrogen, ammonia and other pollutants into Kitts Branch. Kitts Branch flows into Trappe Creek, Newport

Bay and Chincoteague Bay. Fecal coliform is an indicator of the presence of sewage pollution and associated disease-carrying pathogens. EPA regulates fecal coliform to reduce risk of illnesses such as intestinal, skin, ear and eye infections. Excess levels of phosphorus and nitrogen can overstimulate algae growth and reduce crab and fish populations. Ammonia is toxic to fish. These projects will significantly reduce the discharge of nitrogen from four of the company's processing plants. Other benefits include significantly reduced phosphorus runoff into the watersheds, and the construction of waterproof facilities for the storage of litter.

The settlement also will fund a project to assist poultry growers across the Delmarva Peninsula to develop and implement site-specific nutrient management plans. While many of these facilities are not large enough to be classified as Concentrated Animal Feeding Operations (CAFOs), the aggregate runoff from them needs to be addressed. The management plans will help prevent pollution and preserve the environmental health of the Chesapeake Bay for the future.

City of Atlanta

This settlement agreement with the City of Atlanta will resolve CWA and Georgia Water Quality Control Act (GWQCA) violations at all of the City's Combined Sewer Overflow facilities (CSOs). The City will pay a \$2.5 Million civil penalty, implement a corrective remedial action plan to bring its CSOs into compliance with the CWA and GWQCA, and implement a \$27.5 Million supplemental environmental project (SEP) which provides for the creation of a Greenway corridor and a one-time stream clean-up along selected streams. The City has agreed to complete all remedial action necessary to bring the City into compliance with the CWA and GWQCA by July 1, 2007, unless EPD and EPA agree to an extension. The violations were discovered during joint inspections of the City's CSOs, wastewater treatment plants and collection system by EPA and the State of Georgia. The City's preferred alternative of storage and treatment will be compared with other alternatives capable of meeting water quality standards (e.g., sewer separation). EPA and EPD will authorize the City's selection of the final remedy. The streams selected for the Greenway project include portions of the Chattahoochee River corridor, including all tributary streams in that corridor, as well as all tributaries of the River originating in or flowing through the City of Atlanta, and the South River corridor for its entire length. The SEP also provides for the creation of a citizen advisory committee to guide acquisition and development of the Greenway and clean-up program. The partial settlement does not include the Sanitary Sewer Overflows (SSOs) portion of the Atlanta litigation; that part of the case remains unresolved.

Safe Drinking Water Act (SDWA)

New York City

New York City agreed to build a filtration plant for its Croton Drinking Water System to reduce the risk of cryptosporidium and other contaminants for its nearly one million residents, including the elderly and young. Under the settlement filed in U.S. District Court in Brooklyn, the City will build the filtration plant no later than September 2006, spend \$5 million primarily on projects to protect the Croton watershed, and pay a \$1 million penalty to resolve an April 1997 lawsuit brought by the federal government. The suit alleged that the City violated the federal Safe Drinking Water Act by failing to filter the Croton water supply. New York

State intervened as a plaintiff in the lawsuit and also was a party to the settlement. New York City will monitor the quality and safety of its Croton Drinking Water System until the filtration system is in full operation. The watershed protection measures the City will implement include, purchasing land and replacing faulty septic tanks with sewers, and preventing storm water runoff from contaminating the watershed. The Croton watershed, located just north of New York City, supplies ten percent of the city's drinking water, and in drought conditions supplies up to 30 percent. All surface water systems, such as Croton, must filter water unless stringent public health criteria are met to make filtration unnecessary. Filtering drinking water substantially reduces the risk of waterborne disease in surface water systems, which are more susceptible to potential contamination from human and animal wastes, and from microbial contaminants such as giardia and cryptosporidium.

Pesticides Act (FIFRA)

Dupont Company

An EPA administrative law judge imposed the largest administrative penalty in the Agency's history against E.I. du Pont de Nemours & Co. ("DuPont") in a precedential case involving the sale of improperly labeled pesticides in violation of worker protection standards. Dupont was ordered to pay \$1.89 million – the maximum penalty allowed under the law - for explicitly ignoring EPA orders to stop shipping pesticides with labels that were not adequate to protect workers exposed to pesticides from eye injuries. According to the decision, DuPont shipped pesticides--on 379 occasions--with labels that omitted protective eyewear warnings required by the Worker Protection Standard rule. The rule was enacted under FIFRA in 1992. Besides the record fine, the DuPont case is the first to be tried under the Worker Protection Standard rule. In its complaint filed in 1994, EPA charged DuPont with selling and distributing four improperly labeled herbicides: Bladex 4L, Bladex 90 DF, Extrazine II 4L and Extrazine II 4L. The EPA regards misbranding as a serious violation because its regulatory program relies on the accuracy of labeling information to protect humans and the environment from unreasonable risks of harm.

The Worker Protection Standard rule was issued in 1992 to improve the protection of employees on farms, forests, nurseries and greenhouses from pesticide-related illnesses and injuries. One aspect of the worker protection rule requires that all pesticide products sold and distributed after April 21, 1994 must bear labels with worker protection language. In publishing the rule, the EPA estimated that at least tens of thousands of acute illness and injuries occur each year to agricultural workers because of occupational exposures to pesticides. More than 3.5 million farm workers and other pesticide handlers receive protection are covered by the Worker Protection Standards.

Microban

An EPA Administrative Law Judge found Microban Products Co., of Huntersville, N.C., liable for making unlawful public health claims in the sale and distribution of its antimicrobial pesticide Microban Plastic Additive "B" to Hasbro Inc., for use in toys. The Judge ruled that Microban violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which prohibits pesticidal claims that differ from those permitted under a pesticide's registration approval. Antimicrobial pesticides are registered for non-public health and public health uses. First, non-public health uses are to prevent deterioration and fouling of

materials such as plastic, wood, industrial cooling water, metalworking fluids and paints coating. Second, public health uses are to control disease-causing microorganisms such as E.coli, Salmonella, the AIDS virus and the tuberculosis bacterium. In August 1983, EPA approved Microban's registration of the Microban Plastic Additive "B" upon the company's claim that the pesticide is a preservative agent for use in the manufacture of polymer plastic and latex products, which is a non-public health use. However, the company unlawfully claimed that its product was effective against bacteria such as E.coli, Staph. and Strep., which is a public health use. The ruling ensures that unsubstantiated claims by companies, such as those made by Microban, do not put the public health at risk. A hearing will be scheduled later to decide the appropriate penalty. EPA has proposed a \$160,500 penalty.

Toxic Substances Control Act (TSCA)

Hewlett Packard

EPA filed an administrative complaint against the Hewlett Packard Corporation charging the company with producing and exporting chemicals in violation of the federal The complaint seeks a \$2.5 million civil penalty. The complaint alleges that the company has been manufacturing and exporting chemicals for many years without first completing a Pre-manufacturing Notice (PMN) as required under TSCA. PMN requires a company to give the federal government information about the potential health and environmental risks posed by a new chemical before bringing it into commerce. If manufacturers of new chemical substances do not follow the TSCA requirements, the Agency has been prevented from conducting a risk analysis, thus potentially exposing the public and the environment to unknown risks. The HP facility is located in Corvallis Oregon. The filing of the complaint is part of a continuing investigation against HP, which has included the issuance of several subpoenas and a search warrant via the US Attorney's Office in Eugene.

Disclosure Rule Violations

EPA proposed its first administrative civil penalties totaling \$439,725 against the U.S. Navy in Kingsville, Texas, two landlords in Philadelphia, Pa., and a realty firm in Ponca City, Okla., for failing to disclose to their tenants information on lead-based paint. The disclosures are required by the Real Estate Notification and Disclosure Rule, a public right-to-know initiative under the Residential Lead Based-Paint Hazard Reduction Act of 1992. In all four cases, the properties contained lead-based paint and were occupied by families with young children. EPA and the Department of Housing and Urban Development (HUD) issued joint regulations, known as the "Disclosure Rule" which became effective Sept. 6, 1996. The rule requires Realtors and landlords to provide purchasers and tenants with information regarding lead-based paint in homes built before 1978. Under the rule, sellers, landlords and agents must provide purchasers and tenants with an EPA-approved lead hazard information pamphlet. In addition, the rule allows purchasers a 10-day period to inspect housing units for the presence of lead-based paint and associated hazards, and requires that sales and leasing contracts include certain notification and acknowledgment language.

Superfund

General Electric (Housatonic River)

General Electric agreed in principle to spend between \$150 million and \$250 million on cleanup of PCBs and other hazardous substances released by its Pittsfield, Ma. Plant into the Housatonic River in Massachusetts. Under the mediated agreement, GE will remove contaminated sediments from the one-half mile of the Housatonic River nearest the GE plant. Through a cost sharing agreement, GE also will fund much of the anticipated cost of an additional one and one-half mile of river cleanup which will be conducted by EPA. These river cleanups will include contaminated river banks and soils in properties in the flood plain along the river. Later, after a cleanup plan is selected for downstream portions of the river, GE will perform that cleanup as well. In addition, GE will remedy contamination at the Pittsfield plant and other nearby areas, including a school and several commercial properties. The agreement also will address claims that hazardous substances released from the GE plant injured natural resources in the Housatonic River downstream of the plant, extending through Massachusetts into Connecticut. In addition to cleanup the injured resource, GE has agreed to pay \$15 million in damages and conduct a number of projects designed to acquire or enhance wildlife habitat. The U.S. Fish and Wildlife Service, along with agencies from Massachusetts and Connecticut, will serve as natural resource trustees to restore, replace or acquire the equivalence of the injured resources. Finally, the agreement provides for a process to determine whether remediation will be required along another 12 mile stretch of the river.

Federal Facilities

In fiscal year 1998, EPA initiated its first enforcement cases against Federal facilities under newly-clarified penalty authorities under the SDWA, CAA, and TSCA's lead-based paint notice provisions. These enforcement actions are significant, not just because they are the first of their kind, but because they establish that Federal agencies are liable under these statutes just as private parties. Additionally, EPA has found that compliance rates at Federal facilities tend to be higher when EPA has clear enforcement authorities and uses those authorities. EPA expects that use of the clarified penalty authorities will lead to greater compliance by Federal agencies with the SDWA and CAA, and with TSCA's lead-based paint notice provisions.

Redstone Arsenal, Alabama (First Safe Drinking Water Act Case)

EPA Region 4 filed an administrative penalty order against the U.S. Army Aviation and Missile Command, Redstone Arsenal, in Huntsville, Alabama for violations of the Safe Drinking Water Act (SDWA). The base was found to have violated requirements of the law which ensure the safety of the drinking water for the 22,000 people who use the water at the Redstone Arsenal. This is the first penalty action against a Federal facility under the SDWA following the Act's amendment in 1996, giving EPA penalty authority against Federal facilities. The complaint seeks penalties in an amount not to exceed \$25,000 per day per violation. EPA's inspection and subsequent investigation revealed that Redstone violated the Surface Water Treatment Rule, Total Coliform Rule, and Public Notification Rule, including a maximum contaminant level (MCL) violation for total coliform. Redstone failed to properly operate and maintain their storage tanks and reservoirs, a water main flushing program, and maintain adequate disinfectant residual in the distribution

system to keep the level of bacteria within the allowed levels. As of September 1998, the parties were completing negotiations on a settlement which shall include Supplemental Environmental Projects (SEPs) entailing improvements to Redstone's water system which will help ensure the base's water supply is safe while using less disinfectant to purify the water.

U.S. Mint, Pennsylvania (First Clean Air Act Case)

EPA Region 3 announced in January, 1998 that it cited the U.S. Treasury for Clean Air Act (CAA) violations at the U.S. Mint in Philadelphia. This is EPA's first CAA penalty order against a Federal facility using its newly clarified penalty authority under the CAA. In the administrative complaint, EPA charged that the Mint violated regulations governing the emission of chromium compounds and chlorofluorocarbons (CFCs). An EPA inspection revealed that the Mint failed to comply with regulations which reduce pollution from chromium compounds. EPA alleged that the coin-making site violated testing, monitoring, and operation and maintenance requirements for chromium electroplating since January 1997. Chromium compounds are regulated as hazardous air pollutants under the Clean Air Act. Hexavalent chromium, one such chromium compound, is a known carcinogen causing lung cancer and other non-carcinogenic, toxic effects. In September, 1998, EPA and the Mint reached a settlement under which the Mint will pay a \$16,000 penalty in cash which represents 25% of the final assessed penalty and undertake a \$90,427 supplemental environmental project to upgrade pollution control equipment from its chromium electroplating operations. The Mint agreed to install and operate a superior emission control system for two hard chromium electroplating tanks and a chromium strip tank. This control system will greatly reduce emissions below the allowable emissions limit.

Kingsville Naval Air Station, Texas (First TSCA Lead-Based Paint Penalty Case)

EPA Region 6 announced that it has cited the Kingsville Naval Air Station (NAS) for violations of the Real Estate Notification and Disclosure Rule under the Toxic Substance Control Act (TSCA). This is EPA's first penalty order issued to a Federal facility for violating Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act. The administrative complaint, issued on July 28, 1998, charges that the Kingsville NAS violated regulations requiring the disclosure of known information regarding lead-based paint. The complaint alleges that disclosure of known lead-based paint should have been made prior to finalizing occupancy agreements for military housing constructed prior to 1978. A previous report prepared by the Naval Air Station identified lead-based paint in the military housing but the information was not disclosed to the residents prior to signing their occupancy agreements. This situation is considered to be extremely serious because EPA Region 6 provided compliance assistance to the Kingsville NAS regarding the lead disclosure requirements and yet the Kingsville NAS failed to provide the report and make the required disclosure. EPA seeks a penalty in excess of \$400,000 for these violations.

An EPA investigation revealed that the Naval Air Station failed to comply with the lead disclosure regulations which are aimed at preventing childhood lead poisoning. All eleven (11) occupancy agreements cited in the complaint involved housing in which children under the age of six resided on the property. EPA alleged that the military housing office withheld known information regarding lead-based paint, some in deteriorated condition, even after receiving direct compliance assistance on the new lead disclosure requirements. It is estimated that approximately one million children in the United States have lead poisoning

and the most common source of exposure is from lead-based paint in older housing. Over time, even low-level exposure to lead from paint, dust, soil and plumbing can cause a range of health problems including permanent damage to the brain, nervous system, and kidneys.

B. Criminal Cases

Clean Air Act

U.S. v. Louisiana Pacific Corporation, et al.(District of Colorado)

On May 28, 1998, Louisiana Pacific Corporation pled guilty to 14 felony counts for violating the Clean Air Act and four felony counts for consumer fraud. The Corporation was fined \$36.5 million and ordered to pay \$500,000 in restitution. This was the largest fine ever collected under the Clean Air Act. Louisiana Pacific Corporation operates a wood products plant at Olathe, Colorado. The government's indictment alleged that Louisiana Pacific's plant mill manager; Dana Dulohery, and plant Superintendent Robert Mann, conspired to violate the Clean Air Act (CAA), filed false reports with the Colorado Department of Public Health and Environment and the Environmental Protection Agency, and committed mail and wire fraud. In addition to the record fine assessed against the Corporation, Robert Mann was sentenced to 6 months incarceration, 5 years of supervised probation and fined \$10,000. Dana Dulohery was sentenced to 10 months incarceration, 3 years supervised probation and fined \$15,000.

U.S. v. National Refrigerants (Eastern District of Pennsylvania)

Five defendants pled guilty on February 17, 1998, in the District Court to conspiracy to violate the Clean Air Act regarding the importation and sale of the ozone-depleting chemical (ODC), CFC-12, the Federal ODC Excise Tax law, and U.S. Customs law on smuggling goods into the United States. R. Colin Dayton, president and owner of, Refrigerant Management Services, Inc. (RMS) and R&C Sales, pled guilty to one count of unlawful monetary transactions, and face criminal forfeiture of \$688,000. A sales associate of RMS, Christopher Farnham, also pled guilty to the conspiracy and the unlawful money transaction charges. Richard Pelati, an ex-employee of National Refrigerants Inc., pled guilty to the conspiracy charge. The three individuals and two corporations set up a scheme to purchase CFC-12 in Florida which had been illegally imported into the United States in violation of EPA's CFC regulations on consumption allowances, the Federal Excise Tax law on ozone depleting chemicals, and the customs law on smuggling goods. After purchasing 42,400 cylinders of the illegally imported CFC-12, Dayton and Farnham (through RMS and R&C sales) illegally resold the CFC-12 in the U.S. market. The excise tax due on the CFC-12 was approximately \$5,585,400. Dayton and Farnham face a maximum term of fifteen years imprisonment, and a maximum fine of \$500,000. Dayton and his companies face forfeiture of \$688,000. Dayton and Farnham face payment of any ODC excise taxes that may be assessed by the IRS. Pelati faces a maximum sentence of five years imprisonment, and a fine of \$250,000. The corporations face a maximum sentence of one to five years probation and a fine up to \$5,920,000.

U.S. v. Philadelphia Construction and Equipment, Inc. et al (Eastern District of Pennsylvania)

In June 1992, an investigation by the Philadelphia Environmental Crimes Task Force discovered asbestos-contaminated construction debris that had been improperly disposed at a dump site less than a mile from the 900 student Cobbs Creek Turner Middle School, which is located in a predominantly African-American neighborhood. The Task Force determined that Grant Paper Company, a subsidiary of BUNZL, USA, was responsible for the contamination at the illegal dump site and was aware that their factory contained over seven thousand feet of asbestos prior to its demolition. Grant Paper pled guilty to Clean Air Act violations and remediated the dump site at a cost of \$1.5 million as part of their probation.

Howard Parsons, Grant Paper's general manager was indicted in April 1997 for failure to follow federal hazardous air pollutants (NESHAP) standards and the illegal disposal of asbestos contaminated waste. Parson was tried and found guilty on all charges and, on July 21, 1998, was sentenced to 15 months imprisonment, ordered to pay \$42,000 in restitution, and 3 years supervised release. During his release, he is required to restore the residential property he used as the disposal site to acceptable use and to pay each of the families living in the area \$2,000.

U.S. v. Barry Shurelds, et al. (Eastern District of Kentucky)

On October 3, Barry Shurelds of Philadelphia, Pennsylvania; Sam Robinson of Philadelphia, Pennsylvania; Sean Shurelds of Camden, New Jersey; Hosea Eusebio of Jersey City, New Jersey; the IES Lead Paint Division and its parent corporation, IEMC Environmental Group, Inc. were sentenced in U.S. District Court for the Eastern District of Kentucky in Lexington for violating the Clean Air Act. The defendants were convicted of removing asbestos-containing material from the Hess Department Store in Louisville in early 1993 without following applicable federal regulations that prevent exposure to workers and the general public. When inhaled, asbestos fibers can become trapped in the lungs. This can lead to lung cancer and a lung disease called asbestosis. Barry Shurelds, project manager, was sentenced to 51 months in prison. Robinson, the on-site supervisor, received a 10-month sentence. The two other individual defendants received probation. The companies were not fined, as they are out of business. As a result of the improper asbestos removal, the owner of the store, Crown American Corporation, was ordered by the Kentucky Department of Environmental Protection on March 10, 1993 to conduct an emergency cleanup. The clean up cost Crown American approximately \$1 million.

U.S. v. Saybolt, Inc., et al. (District of Massachusetts)

On August 18, 1998, Saybolt, Inc., a leading firm in the petroleum inspection industry which has laboratory facilities in Woburn, Mass., Kenilworth, N.J., and New Haven, Conn., pled guilty to violations of the Clean Air Act and the Foreign Corrupt Practices Act. The CAA violations involved data falsification charges, i.e., the company sent EPA falsified reports of laboratory tests performed on petroleum products. The falsified reports routinely overstated the oxygen content of reformulated gasoline (RFG) and also routinely reported that tests of other petroleum products, such as home heating oil, were "on-specification," regardless of whether the products met specifications or not. RFG is required to contain more oxygen than other blends of gasoline in order to reduce smog. RFG which does not contain required levels of oxygen can contribute to smog in cities that have air quality problems, and smog is a known cause of respiratory illnesses in people. Under the plea agreement, the company will pay a \$4.9 million fine and serve five years probation.

As a condition of its probation, Saybolt is required to establish and maintain an effective compliance program regarding the operation of its qualitative inspection and testing services, subject to the review and approval of EPA. Saybolt also agreed to fully cooperate in the investigation of individuals responsible for its criminal conduct. A separate provision of the plea agreement requires Saybolt to purchase display advertising in petroleum industry trade publications about its guilty plea.

Clean Water Act

U.S. v. T.T. Barge (Middle District of Louisiana)

T.T. Barge Cleaning, Inc. (TT) provides barge cleaning and repair services at three marine facilities along an 80 mile stretch of the Mississippi River. The barge cleaning process involves the stripping, steaming, and washing of customer barges with water and/or chemical cleaners such as soaps, de-greasers, and solvents. The cleaning process also includes the removal of rust, scale, mud, and sludge from inside cargo tanks within the barges. The government alleged that from 1986 to February 1997, TT and its employees routinely and illegally discharged untreated wash waters directly from customer barges and vacuum tanks into the Mississippi River. TT cleaned a wide variety of commercial vessels, and the untreated wash water discharged into the river included diesel fuel, benzene, toluene, and chemical compounds such as acid, calcium chloride, methanol, chlorine, glycol, and ethanol, as well as cleaning solvents and chemicals used in the cleaning process. On August 20, 1997, TT pled guilty to violating the Clean Water Act by discharging pollutants over an eleven year period. On October 29, 1997, TT was ordered to pay a fine of \$300,000 and placed on five years probation. In addition, the company must conduct environmental audits during their probation and retrieve and remove the drums pushed in the Mississippi River from their facilities.

U.S. v. BFI Medical Waste Systems, Inc. (District for Washington, D.C.)

On September 18, 1998, a \$1.5 million fine was imposed on a subsidiary of Browning-Ferris Industries, Inc. for 1995 and 1996 criminal violations of the Clean Water Act at a now-closed medical waste treatment facility in the District of Columbia. BFI-Maryland owned and operated a facility which treated medical wastes using a steam processing system known as an "autoclave." In a 1991 application to the District of Columbia, the company stated that the wastewater would be pre-treated prior to discharge to the sewer system. As a result of facility design changes, BFI-Maryland began accumulating rainwater, snow melt, and other liquids in an area used to load treated medical waste for shipment to a permitted landfill. This "trailer pit" also accumulated treated medical waste, untreated wastewater from the autoclave system, and, in the Government's view, untreated medical waste. Gregory Ryan Smith, the local Plant Manager, and others had employees pump wastewater from the trailer pit onto the facility's parking lot and into a drain leading to the sanitary sewer. BFI-Maryland, along with Smith, pled guilty in June to knowingly failing to notify District of Columbia authorities of a substantial change in the nature of the wastewater the facility was discharging into sewers leading to the Blue Plains waste water treatment plant. In addition to the \$1.5 million criminal fine, BFI-Maryland was sentenced to two years probation and community service, in the form of a \$100,000 payment to the Conservation

Fund to advance land and water conservation activities at the community level. Also, the parent company, Browning-Ferris Industries, Inc., of Houston, TX, will execute an environmental audit and develop and maintain an environmental compliance program at each of its autoclave facilities in the United States.

U.S. v. Hess Environmental Laboratories Inc., et al. (Eastern District of Pennsylvania)

Hess Environmental Laboratories, Inc. (Hess Labs) conducted analyses of environmental samples to various customers. Michael Klusaritz was the Laboratory Director at Hess Labs until June 1995 when he left to start his own environmental laboratory, Phase II Labs (Phase II), which he operated through November 1996. Investigation revealed that both Hess Labs and Phase II were providing false and fraudulent environmental testing results to many customers over a nine year period. The company did not have the proper equipment to conduct the requisite analysis and failed to conduct the analysis in accordance with EPA methods. False lab results were provided to schools, hospitals, local governments and businesses and were relied upon by the EPA, Pennsylvania Department of Environmental Protection and the U.S. Department of the Army. On November 10, 1997, Hess Labs pled guilty to a total of nine felony counts including conspiracy, mail fraud, false statements, false claims and Clean Water Act (CWA) violations, including knowingly aiding, abetting or causing violations of Tobyhanna Army Depot's CWA permit. On April 9, 1998, Hess Labs was sentenced to five years probation and ordered to pay \$5,553,634 in restitution. Michael Klusaritz and Phase II each pled guilty to false statements, false claims and mail fraud violations and were sentenced October 28, 1997. Michael Klusaritz is currently serving a sentence of 12-month incarceration. Both Klusaritz and Phase II were held jointly and severally liable for restitution in the amount of \$40,000. Judith McCoy, former Technical Director at Hess Labs pled guilty to conspiracy, false statements and mail fraud. McCoy was sentenced on September 21, 1998, to three years probation and ordered to pay a \$10,000 fine and restitution of \$27,000. William L Hopkins, former President of Hess Labs pled guilty to four felony counts including conspiracy, mail fraud, false statements and CWA violations. Both Hess Labs and Phase II closed and terminated their businesses as a result of the investigation.

U.S. v. Royal Caribbean Cruise Lines, Ltd.(Southern District of Florida)

In October 1994, the cruise ship, Sovereign of the Seas, was observed by a Coast Guard plane emitting a visible oil sheen into ocean waters off the coast of Puerto Rico. When the Coast Guard boarded and inspected the vessel, it was presented with a false logbook that omitted some oil discharges and misrepresented others. Additionally, under orders of a senior officer, the bypass pipe that circumvented the oil-water separator (thereby resulting in the sheen observed by the Coast Guard) was removed between the first Coast Guard inspection in San Juan after the incident and the second inspection in Miami, and was cut up in pieces and disposed of in a dumpster. The appearance/ disappearance of this pipe was documented in a Coast Guard videotape. During the ensuing investigation, the government established that the discharge of oily bilge water was not an isolated occurrence; rather it was endemic to the fleet of Royal Caribbean cruise ships, e.g., the Nordic Empress which also had a bypass pipe. Likewise, the maintaining of false logbooks was endemic. Royal Caribbean pled guilty in Puerto Rico on June 3, 1998, to seven counts of a ten count indictment

and agreed to pay a fine of \$8,000,000. The Clean Water Act violations included discharge of oil from the Sovereign of the Seas off the coast of Puerto Rico, and failure to report the discharge. Other violations included conspiracy, witness tampering, obstruction of justice (destruction of evidence), and false statements. On the same day, Royal Caribbean also pled guilty in Miami to one count for presenting a false oil record book for the Nordic Empress, and agreed to pay a \$1,000,000 fine.

U.S. v. T&T Fuels, Inc., et al. (Southern District of West Virginia)

On March 9, 1998, Paul Thomas of Morgantown, WV., President and Co-Owner of T&T Fuels, Inc., was sentenced for violating the Clean Water Act by discharging millions of gallons of acid mine drainage in violation of state and federal permits. The U.S. District Court in Elkins ordered Thomas to pay \$273,000 in back civil penalties and \$170,400 in land reclamation costs to the State of West Virginia, plus serve six months home detention and five years probation. Thomas also must pay two-thirds of the monthly cost of nearly \$36,000 for treating discharges from T&T mines for as long as they discharge.

Resource Conservation and Recovery Act (RCRA)

U.S. v. Frank V. Carlow (Western District of Pennsylvania)

On February 3, 1998, Frank V. Carlow of Uniontown, PA, owner of several coal mining and demolition companies, was sentenced to serve 87 months in federal prison and pay \$4,591,027.00 in restitution by the U.S. District Court in Pittsburgh.. Carlow admitted that he illegally stored over one hundred seventy 55-gallon drums of hazardous wastes at the former Beaumont Glass Company in Morgantown, WV from 1992-1997. Many of the drums contained hydrofluoric acid which can cause severe chemical burns. In addition, Carlow evaded over \$10 million in federal taxes and \$2.5 million in state worker insurance payments by under reporting the hours worked by approximately 400 miners who he employed. Carlow was convicted on November 3, 1997 of illegally storing hazardous wastes, tax evasion, mail fraud, pension fraud, and obstruction of justice. The case was investigated by EPA's Criminal Investigation Division, the FBI, the Internal Revenue Service Criminal Investigation Division, the U.S. Department of Labor Office of Inspector General, and the Secret Service.

U.S. v. H & J Auto Inc., et al. (Eastern District of Oklahoma)

On February 12, 1998, Carl Eugene Hines, and Daniel Robert Martin were convicted by a federal jury in Oklahoma of conspiring to manufacture, possessing with intent to distribute and distributing methamphetamine; attempting to manufacture methamphetamine; possessing a firearm after a felony conviction; intimidating a federal witness; causing the illegal transportation of hazardous waste without a manifest; and conspiring to illegally transport hazardous waste. Hines ran a salvage yard as a cover for an interstate methamphetamine manufacturing and distribution network. His efforts to dispose of trailer loads 55-gallon drums of hazardous waste which had accumulated at his salvage yard over the years, including a series of false explanations to law enforcement officers concerning the disappearance of the drums, prompted the Oklahoma Department of Environmental Quality to refer the investigation to EPA Region VI. Prior to trial, Jack Hensley, pled guilty to conspiracy to manufacture and

distribute methamphetamine; former Marshall County Sheriff Decco Bazter pled guilty to conspiring to manufacture, possession with intent to distribute methamphetamine, possession of methamphetamine, intimidating a federal witness, aiding and abetting the possession of a firearm by a convicted felon, and conspiracy to illegally transport hazardous waste; and Bill Orange, pled guilty to conspiring to illegally transport hazardous waste. On June 23, 1998, all five defendants were sentenced. Hines was sentenced to a non-pardonable prison term of 420 months and to a 120-months of supervised release. Martin was sentenced to two non-parolable prison terms of 240 months and a 120 month term of supervised release. Baxter was sentenced to concurrent terms of 102 months imprisonment and a 120 month term of supervised release. Hennsley was sentenced to a 76 month prison term and a 60 month term of supervised release. Orange was sentenced to a 27 month prison term and a 36 month term of supervised release.

U.S. v. Safewaste Inc., et al (Eastern District of California)

In 1993, the Sacramento fire department discovered illegally stored hazardous wastes in a inspected a warehouse leased by Frank Fiorillo, Jr. and Art Krueger. A subsequent search warrant by the Sacramento County Environmental Crimes Task Force revealed more wastes in a concealed room, as well as rocket motors, warheads, 17,000 artillery shells, and 7,500 pounds of explosives which were illegally stored. The investigation disclosed that Fiorillo and Krueger , who operated Safewaste and West Coast Industries, Inc., had contracted with Diversey Inc., a national manufacturer of cleaning chemicals based in Michigan, to handle its off-specification material as a hazardous waste. The material was taken to their Sacramento warehouse where much of it was hidden in the concealed room. Fiorillo and Krueger provided Diversey with false certificates of disposal for the waste and fraudulently billed them over \$250,000 for waste disposal services that were never performed. On July 2, 1997, Fiorillo and Art Krueger were convicted for the illegal storage and transportation of hazardous wastes to an unpermitted facility, as well as wire fraud. Fiorillo was also convicted of federal firearms and explosives regulations. On December 12, 1997, Frank Fiorillo, Jr. was sentenced to 51 months incarceration, a \$75,000 fine and ordered to pay \$14,000 in restitution to Sacramento Fire Department. On December 19, 1997, Art Krueger was sentenced to 21 months incarceration and a \$450 special assessment.

Act to Prevent Pollution from Ships Act

U.S. v. Holland American Cruise Line (District of Alaska)

The Holland America Cruise Line, a subsidiary of the Dutch company HAL Beheer BV, agreed to pay a \$1 million fine and provide \$1 million to the National Park Foundation to benefit marine ecosystems at a hearing on June 19 in U.S. District Court in Anchorage. The company admitted to violating the Act to Prevent Pollution from Ships during the summer of 1994, when oily water was illegally discharged from the bilge of the cruise ship SS Rotterdam while it was sailing within Alaska's Inside Passage. In addition to the \$2 million payment, Holland America agreed to establish a company environmental compliance plan, to add pollution reduction equipment on each of its vessels, and to serve five years probation. The case was investigated by EPA's Criminal Investigation Division, the Marine Safety Office and the Investigative Service of the U.S. Coast Guard, and the FBI.

U.S. v. Dunes Marina Resort and Casino, Inc. (Southern District of California)

On July 7, 1994, the Alabama Department of Environmental Management referred a complaint to the EPA Region IV Criminal Investigations Division regarding asbestos in plastic bags dumped from the Marine Vessel Muskegon Clipper while being towed from Seattle, WA through the Panama Canal to Mobile, AL. Investigative information indicated the vessel's last place of embarkation from the U.S. was San Diego, CA. EPA took primacy of the investigation and on March 16, 1998, Dunes Marina Resort and Casino, Inc., the owner of the M/V Muskegon Clipper, pled guilty to a violation of the Act to Prevent Pollution from Ships (MARPOL) for dumping plastics at sea. Dunes was also sentenced to a \$250,000 criminal fine and one year probation. The U.S. Attorney's Office's in San Diego and Reno said that this was the first time a casino in land locked Nevada was ever convicted of an "ocean dumping" violation.

FIFRA

U.S. v. Margaret Stewart (Northern District of Mississippi)

Margaret Stewart of Clarksdale, Mississippi, was sentenced on June 23 to one year in prison in U.S. District Court in Oxford for violating the Federal Insecticide, Fungicide, and Rodenticide Act by illegally selling the pesticide Endosulfan in an improperly marked container. Endosulfan is an organophosphate pesticide which is highly toxic to the nervous system. Exposure to it can cause headache, nausea, vomiting, dizziness, tremors, convulsions, coma, and death from respiratory arrest. When Endosulfan is mixed with water it turns a milky white color. Minnie Lou Rudd of Batesville, MS, died after she mistakenly drank from a milk container purchased from Stewart which contained a mixture of endosulfan and water. The case was investigated by EPA's Criminal Investigation Division, the FBI, and the Mississippi Department of Agriculture and Commerce.

U.S. v. Lee Poole (Eastern District of Michigan)

Lee Poole was an uncertified pesticide applicator who illegally sprayed homes with methyl parathion in February 1996, despite two previous enforcement actions taken by the State of Louisiana for improper and unlicensed use of methyl parathion. Poole previously pled guilty to two counts of illegally applying the restricted use pesticide methyl parathion to homes in the Houma, LA area. Poole's actions resulted in a \$2.1 million emergency cleanup of these homes. Methyl parathion is acutely toxic and is approved only for outdoor use where it breaks down due to sunlight. When applied in homes, methyl parathion can retain its toxicity to the nervous system for years, and can cause headaches, nausea, vomiting, cramps, blurred vision, difficulty breathing, muscle spasms, convulsions, coma and even death in humans and domestic animals. On April 28, 1998, Poole was sentenced to two years imprisonment and ordered to pay \$2,189,000 in restitution for federal emergency cleanup costs that resulted from his crimes.

U.S. v. Ruben Brown (Northern District of Illinois)

Ruben Brown, doing business as Ruben Brown Extermination and J. D. McKinley Extermination, operated a pest extermination business without state certification in the Chicago, Illinois area for several years. EPA Region V Branch executed an administrative search warrant at Brown's residence on April 9, 1997, which led to the seizure of containers of methyl parathion, spraying equipment and spraying records indicating Brown had sprayed over 600 residences since 1991 in the Chicago area. Brown admitted spraying the residences with methyl parathion between 1991 and 1996. He also admitted to selling bottles of methyl parathion to individuals for spraying. The spraying occurred in predominantly low income, African American communities. Many of the residences had young children residing in them. On June 20, 1997, Brown was charged in a two count information with misusing a restricted use pesticide. On July 24, 1997, Brown pled guilty to the two count information, admitting that he sprayed methyl parathion in 1,000 homes in Chicago, and sold the chemical in concentrate form to his clients. On December 9, 1997, Brown was sentenced to two years imprisonment and one year supervised release. EPA Region V completed its cleanup of 90 Chicago area homes in May 1998. Some 900 homes were sampled for the presence of the toxic pesticide. Total cleanup costs exceeded \$10 million.

II. Compliance Incentives Settlements (Self-Disclosure Policy)

GTE

In the largest case under EPS's Self-Disclosure (Audit) Policy, GTE disclosed and resolved 600 violations of the Emergency Planning and Community Right to Know Act (EPCRA) and the Oil Pollution Act (OPA) at 314 GTE facilities in 21 states. All the sites were brought into compliance. GTE conducted a company-wide audit at 10,000 sites nationwide. GTE disclosed 511 violations of the EPCRA, §§ 302, 303, 311 and 312, for failure to notify state agencies and local fire departments of sulfuric acid filled batteries present at 229 GTE telecommunications sites located in 16 States in seven Regions. Another 89 violations were for failure to develop Spill Prevention Countermeasure and Control (SPCC) plans, as required by § 311 of the Clean Water Act (CWA), for diesel fuel stored at sites in 13 States covering six Regions. GTE notified EPA of the violations and then filed the EPCRA reports with the appropriate state and local agencies, and is implementing the SPCC plans. No releases or spills of hazardous material's occurred at any of these sites during the period of non-compliance. Under the provisions of the Audit Policy, GTE qualified for 100 percent mitigation of the gravity portion of the penalty, but was required to pay an economic benefit penalty of \$52,264, \$35,556 of which is attributable to the EPCRA violations and \$16,708 to the SPCC violations.

East Ohio Gas Co. Settlement

EPA negotiated a consent agreement and consent order resolving a series of polychlorinated biphenyl (PCB) violations disclosed by East Ohio Gas. The company's violations included the failure to properly manufacture, use, label, store, record or dispose of PCB's and PCB-containing items, and the failure to prepare, carry-out, and have available for inspection a spill prevention control and countermeasure plan, as required by law. In April 1998, the company completed a company-wide audit to determine its compliance with the federal PCB rules. The settlement under the Audit Policy requires the company to correct the violations and prevent future occurrence. EPA proposed a civil penalty of \$1,247,460 for the violations alleged in the complaint. By qualifying for a settlement under the Audit Policy the company will ultimately

pay a \$193,260 fine to offset the economic benefit East Ohio received by not fully complying with PCB regulations.

III. Compliance Assistance and “Public Right to Know” Activities

EPA has greatly increased its efforts to develop compliance assistance tools, particularly for small businesses. The goal is to give all businesses the information on environmental requirements they need in order to comply.

A. National

Sector Notebooks Series

EPA expanded the Industry Sector Notebook series: *Profile of the Metal Casting Industry*, *Profile of the Ship Building and Repair Industry*, *Profile of the Ground Transportation Industry - Trucking, Railroad and Pipeline*; *Profile of the Water Transportation Industry*; and *Profile of the Air Transportation Industry*. The total number of sector Notebooks now stands at 27. Each Notebook provides a basic understanding of the major environmental issues relating to the subject industry and includes information on general industry background; size and national distribution; economic trends; descriptions of common manufacturing processes; wastes released; pollution prevention opportunities; summary of applicable Federal statutes and regulations; compliance and enforcement history; and resources for further research. In response to user's demands, EPA also prepared and published the *Sector Notebook Data Refresh-1997*, which revised the Toxic Release Inventory and Compliance and Enforcement data presented in the first cluster of 18 Notebooks that were published in 1995. During the year, OC administered the distribution of printed Notebooks and the maintenance of the Sector Notebook Internet site. To date, over 300,000 Notebooks have been distributed in printed and electronic formats to audiences in the United States and abroad.

Five New Compliance Assistance Centers Opened

EPA opened five new compliance assistance Centers: the Printed Wiring Board Resource Center, Paints and Organic Coatings Resource Center, ChemAlliance (serving the Chemical Industry), Transportation Environmental Resource Center, and the Local Government Environmental Assistance Network. The centers help small businesses and governmental entities understand and comply with their regulatory obligations. All of the Center Internet sites provide comprehensive environmental regulatory and technical information in convenient and user friendly forms. Designed and operated by cooperative partnerships between public-private entities, they provide accessible and “up to the minute” information that regulated businesses need to know to keep up with the law and with their competitors. The sites provide such information as plain English summaries of regulations, access to state regulations, emission calculation tools, vendor directories, and numerous technical resources. (A fact sheet on the nine compliance centers currently in operation is on the next page)

FACTS & STATS ABOUT THE COMPLIANCE ASSISTANCE CENTERS

- EPA's nine Compliance Assistance Centers are operated in partnership with industry associations, environmental groups, universities and other government agencies. The Centers are accessible via Internet Web sites, toll-free phone lines, and fax-back capabilities.
- The Centers focus on providing compliance assistance to the following nine sectors: printing; metal finishing; agriculture; the chemical industry; transportation; paints and coatings; printed wiring board; automotive service and repair; and local governments.
- The Centers are reaching an increasingly wide audience in their target group of small businesses and local governments. In 1998, the Centers' Web sites were visited over 190,000 times by industry, assistance providers, government, and the public.
- The most popular features of the Web sites include: technical data bases, fact sheets, and compliance documents. The Web sites also offer special features, such as "virtual operations" that allow users to click on any part of an illustration - a shop floor or city for example - to see what regulations apply.
- Last year, the Centers also responded to over 3,600 calls and questions via e-mail and telephone assistance lines.
- Such use of the Centers appears to influence follow-up actions. 83% of the surveyed Centers users took one or more of the following actions as a result of using a Compliance Assistance Center: contacted a vendor; requested technical assistance; contacted a regulatory agency; changed a process; obtained a permit; or changed handling of a waste.
- Of those using the Centers for assistance in understanding federal regulations, 72% of surveyed users rated the Centers either as useful or very useful.
- Private users account for over 75 % of the Web site traffic. International users account for approximately 8%, while government usage accounts for approximately 7 %.
- Over 85% of surveyed users visit the Centers at least once a month. Nearly one-third of those surveyed visit at least once per week.
- To visit any or all of the nine Centers on the Internet, go to: <http://www.epa.gov/oeca/mfcac.html>

Sector Facility Indexing Project—Pilot Phase Completion

EPA completed the pilot phase of the Sector Facility Indexing Project (SFIP), which makes it easier for

the public to access a wide range of environmental information about regulated facilities. SFIP currently contains records for five industry sectors that consist of a total of 653 facilities. In the past, these records, although public, were very difficult for government and public users to access because they were spread across many different databases. Under SFIP, the Agency has integrated this information so that it can be viewed in one place, and can be used to better understand overall facility environmental records. The data include information on past inspections and enforcement actions, as well as information on the size of the facilities and their annual releases of chemicals into the environment. Demographic data about communities near the facilities is also included. The database has multiple uses. Government agencies can use the information as a planning tool. Facilities can benchmark their data against those of other similar facilities, or simply monitor their own regulatory performance. Environmental and community groups now have easier access to information that they can use to learn about the environmental performance of individual facilities. . The Agency publicly released the SFIP data on May 1, 1998, via the Internet. (<http://www.epa.gov/oeca/sfip>). In addition to releasing the data electronically, EPA has also made available in September, 1998, a hard copy report of SFIP for those who do not have ready access to the Internet. Through the first four months of its availability, the Website has been accessed with approximately 40,000 user sessions and 215,000 hits.

Compliance Assistance Tool for RCRA Organic Air Emissions Standards

This compliance assistance tool, developed in partnership with the Chemical Manufacturers Association, provides a user-friendly explanation of the requirements of the Resource Conservation and Recovery Act (RCRA) organic air emissions standards contained in 40 CFR Parts 264/265, Subpart CC. When the rule was issued, EPA estimated that organic air emissions from hazardous waste Treatment, Storage and Disposal Facilities (TSDFs) exceeded 2 million tons per year. Full compliance with Subpart CC standards should reduce the level of organic air emissions to approximately 150,000 tons per year and thereby result in a reduction in cancer and other adverse health effects from reduced exposure to organic air emissions.

Profile of Local Government Operations

This tool was developed to assist Regions in their compliance and enforcement activities related to the local government sector, as well as to assist this sector in understanding, identifying, and complying with applicable environmental regulations. By presenting information on each local government operation, rather than each media, the Profile should facilitate local government awareness of and compliance with all applicable environmental regulations. A comprehensive understanding of environmental compliance obligations is an important step for local governments toward prioritizing compliance activities, developing a comprehensive compliance plan, as well as identifying pollution prevention opportunities. Policies such as EPA's small community policy provides a framework for utilizing this information. The Profile also provides other useful information such as a compliance baseline, summary of enforcement actions, and an overview of local government management and financial structures. The Profile should prove to be a valuable tool for EPA as well by increasing the understanding local governments and their operations. The organizing principal of the Profile will be shared by EPA's Local Government Environmental Assistance Network.

Consolidated Screening Checklist for Automotive Service and Repair Shops

This checklist, along with a guidance manual, was created for both inspectors and shop owners. For the shop owner, the checklist can be used as a self-auditing tool to identify which activities may not meet federal environmental requirements. If the shop owner finds that shop activities are not meeting federal environmental requirements the accompanying guide book provides possible solutions or recommends other sources for more comprehensive federal environmental information. For the inspector, the screening checklist provides a quick means of identifying questionable operations of the automotive service and repair shop. If the checklist indicates questionable results, this helps the inspector determine if a full compliance evaluation of a specific environmental program is warranted. This saves the Agency time and effort in targeting non-compliant shops. This year, the consolidated screening checklist was instrumental in establishing a baseline of the level of compliance for the automotive service and repair industry. Four hundred and forty surveys were conducted across the country surveying new car dealers, franchise shops, independent repair shops and independent auto body shops. With these data, OC established a baseline of the level of compliance for each automotive category. During the next two years, OECA will focus compliance assistance efforts on this industry. A second survey will be reported in early 2000 to determine if the assistance efforts by OECA, the Regions, and various other organizations improved the level of compliance of automotive service and repair shops.

An Environmental Compliance Guide for Rural Electric Cooperatives.

The guide helps rural electric cooperatives better understand their obligations under the federal environmental regulations, and to improve their level of compliance. The guide explains how to comply with the federal environmental regulations applicable to the non-power generation activities at the cooperatives. The guide covers thirteen specific environmental topics: PCB's; waste management; hazardous waste/material transport; storage tanks; hazardous products management; spills/releases; wastewater/storm water; drinking water; wetlands and endangered species; herbicides/pesticides; air; and asbestos. The guide also provides information on pollution prevention options that are available and where additional help can be obtained. The primary users of the guide are intended to be maintenance and other staff of rural electric cooperatives, with other potential users being local, state, and federal government environmental professionals, especially compliance inspectors.

Self Audit and Inspection Guide for Facilities Conducting Cleaning, Preparation and Organic Coating of Metal Parts

This is a unique audio-visual compliance assistance tool. The CD-ROM and accompanying written guidance lead the user through a virtual organic coating facility using video and animation. The Guide provides a video or animated presentation of 17 metal parts cleaning, coating, and curing processes. In addition, for each process area, the following information is provided: summaries of the applicable Federal environmental statutes and regulatory requirements; hot links to the full text of Federal environmental statutes and regulatory requirements; self audit and inspection questions; sources of pollution; common causes of violations; pollution prevention alternatives; hot links to other Internet resources. This compliance assistance tool will provide environmental professionals with a multi-media perspective of the environmental regulatory requirements which apply to an organic coating facility. This tool also will help identify activities and requirements necessary to complete an audit of production processes, equipment, and management

systems.

B. Regional Compliance Assistance Activities

In addition to the development of compliance assistance materials and tools nationally, EPA regions have undertaken many assistance projects for or with small business and local governments. Last year, the regions provided a range of compliance assistance to 35,000 entities in seven key industrial sectors and provided media-specific information to over 250,000 entities. Following are a few examples.

Region 10: Perc dry cleaners

The Region 10 Air Program undertook a compliance assistance initiative for this sector in Idaho in FY 98, conducting four workshops in June 1998 around the state, mailing information to all identified sources, and conducting compliance assistance visits/inspections at 16 facilities. Final outcome measures will be tallied in FY 99 from results of follow-up inspections at sources that were in noncompliance at the time of the assistance visit (about half). Region 10 also conducted compliance inspections at six sources in Alaska, of which three (50%) were in noncompliance. The region will be addressing all of these sources during Q1 in FY 99 and will continue to conduct a limited number of inspections in FY 99. The majority of violations involve monitoring and recordkeeping requirements, and, if similar violations and compliance rates are found during the inspections in FY 99, Region 10 likely will recommend removing this sector from Region 10's priority list.

Region 5: Class V Wells

Region 5's Underground Injection Control (UIC) Branch continues to work on identifying Class V wells and closing potentially endangering wells in the direct implementation states of Indiana, Michigan, Minnesota, and on all Tribal Lands. In Michigan, Region 5 has undertaken an extensive outreach effort targeting County Health/Environmental officials that describes the UIC program, Class V wells and the risk that these wells pose to underground sources of drinking water. As a result of this outreach, five Counties have entered into partnerships with EPA to identify Class V wells. The Counties have visited about 475 sites to identify approximately 129 wells which resulted in the closure of an as yet unknown number of endangering Class IV/V wells. With the ongoing outreach efforts, additional Counties have expressed an interest in partnering with EPA in a variety of projects that would result in added inventory of Class V wells and the closure of endangering wells.

In Indiana, the UIC program continued to support the environmental "Circuit Rider" program in the State. This environmental specialist provided cities and towns with free, confidential assistance to address environmental problems. The program promotes local implementation of the Wellhead Protection and UIC Class V programs and provides outreach to small businesses. The State has also continued to actively refer local officials and well operators with issues involving potentially endangering Class V wells to the Region for follow-up. Indiana also provides Class V well owners/operators with inventory forms for them to complete and submit to the Region.

Region 9: Auto Repair

Since January 1996, Region 9 has been providing support to local governments in several San Francisco Bay Area counties to implement the Green Business Program. The program is testing a new model which consolidates compliance requirements and provides resource conservation and pollution prevention information to small business through a recognition program. To date, counties in Alameda, Contra Costa, Napa and Sonoma have implemented the program for the first targeted industry, automotive repair. During FY98 Contra Costa was the most recent county to join the effort with 23 auto repair shops participating in the program. In addition, OECA has provided funding to develop a program guidance manual for other interested communities and to create a national "Road Show" through the Joint Center for Sustainable Communities (a partnership of the U.S. Conference of Mayors and the National Association of Counties). The "Road Show" will include the Green Business Program as one of several local models which will be marketed for implementation to other communities across the U.S.

Region 1: Charles River Initiative

Working with the Massachusetts Department of Environmental Protection and the Charles River Watershed Association, Region I's "Clean Charles" initiative combines enforcement and compliance assistance with the goal of restoring fishable/swimmable conditions in the Lower Charles by Earth Day, 2005. In FY98, Region 1 sent a letter and supplemental compliance assistance information to 3,100 businesses/institutions located in the Lower Charles River watershed to educate them on stormwater permitting requirements and encourage those not subject to make voluntary efforts to lessen stormwater impacts. The mailing included a cover letter outlining EPA's Clean Charles 2005 program, monitoring activities, permitting requirements, examples of voluntary measures, and a description of the Region's Partners for Change recognition program. The letters also described opportunities for compliance assistance which EPA had developed specifically for Charles River facilities. These included customized assistance materials for auto-related facilities, creation of a "report-a-sheen" oil spill reporting hotline and development of an innovative stormwater technology trade show.

Many facilities took advantage of compliance assistance opportunities provided by the Region. Some environmental consulting firms developed compliance seminars specifically targeted to Charles River facilities. The advertisements for these seminars ("Urgent!! Are you ready? EPA's Charles River Initiative Enforcement Inspections begin May 1, 1998") provided repeated reminders to the regulated community of EPA's field presence, and of the need to ensure compliance. When EPA conducted inspections in May, inspectors observed that the Charles River facilities had, by and large, taken significant steps to review their operations and ensure that they were in compliance with environmental requirements. Anecdotal evidence is that similar activities took place in many of the facilities which EPA did not inspect—i.e., that the deterrent effect of EPA's inspections was multiplied by the early warning to the entire regulated community. In a few cases, significant violations were found, and enforcement actions are being developed. A second round of inspections is planned for later this year, to ensure a sustained commitment to compliance.

Water quality in the Charles has improved dramatically as a result of both the enforcement and compliance assistance efforts. When EPA's initiative began in 1995, the Lower Charles failed standards for

recreational boating an average of 223 days per year--that figure has since been reduced by two-thirds, to 77 days per year. The number of days that the Lower Charles meets swimming standards has more than doubled, from 69 to 164 days per year. The Lower Charles--once home to the most popular swimming beach in Greater Boston--is on the road to recovery.

Major Activities During the First Quarter of FY 1999

Enforcement Cases

Ashland Inc.

On October 1, 1998, EPA and DOJ announced that Ashland Inc. agreed to spend \$32.5 million to settle charges of multiple environmental law violations at its petroleum refineries in Kentucky, Minnesota and Ohio. Under the settlement, Ashland will undertake corrective actions that include improvements to the wastewater drainage system at its Ohio facility to prevent the release of volatile organics into the atmosphere; upgrades to the wastewater treatment system at the Kentucky plant to reduce the release of harmful chemicals into the Big Sandy River; and the installation of a series of wells to prevent the release of petroleum contaminants into the Mississippi River in Minnesota.. As part of the settlement, Ashland has also agreed to perform a number of supplemental environmental projects worth over \$14.8 million, which consists of donating and restoring 274 acres of ecologically significant dune prairie grassland to the state of Minnesota for permanent preservation as a scientific and natural area. The company will assist the state of Kentucky with air monitoring as part of the Tri-State Initiative in the area of Kentucky, Ohio and West Virginia.

The agreement resolved charges that Ashland violated the Clean Air Act (CAA), the Clean Water Act (CWA), the Resource Conservation and Recovery Act (RCRA), the Emergency Planning and Community Right to Know Act (EPCRA), and the Toxic Substances Control Act (TSCA) at its refineries in Catlettsburg, Ky., St. Paul Park, Minn., and Canton, Ohio. The claims against Ashland include the release of excess sulfur dioxide and other pollutants at its Catlettsburg and Canton facilities in violation of the CAA; unreported accidental releases of toxic chemicals at the Catlettsburg facility in violation of EPCRA; unauthorized wastewater discharges at each of the three refineries in violation of the CWA and improper management of hazardous waste in violation of RCRA.

FMC Corporation

On October. 16, 1998, FMC Corporation, Inc. agreed to spend approximately \$170 million, including an \$11,864,800 civil penalty-- the largest ever obtained under the Resource Conservation and Recovery Act (RCRA) -- to settle charges that it repeatedly violated the hazardous waste law at its phosphorus production facility in Pocatello, Idaho. Under the settlement, FMC will close surface ponds previously used to store and manage hazardous ignitable and reactive phosphorus wastes, construct a \$40 million waste treatment plant to deactivate the phosphorus bearing wastes, and undertake a comprehensive environmental management system to ensure future compliance with the law. The costs of injunctive relief required under the settlement are expected to exceed \$90 million. FMC also has committed to over a dozen

Supplemental Environmental Projects ("SEPs") with a capital cost of \$63 million, which will significantly improve air quality in the Pocatello region by reducing approximately 436 tons of particulate matter per year in emissions of dust and soot at the facility. As a final SEP, FMC will conduct a \$1.65 million public health assessment and education program to investigate the effects of contaminants generated by FMC on human health and the environment, particularly within nearby tribal lands.

The government's claims against FMC include numerous RCRA violations, the most serious of which involve mismanagement of ignitable and reactive phosphorus wastes in ponds. Storage of such hazardous wastes in ponds is prohibited by RCRA because of the potential threat to human health and the environment. It is believed that migratory bird deaths in the area also may be attributable to phosphine poisoning.

Diesel Engine Manufacturers

On October 22, 1998, EPA and the Justice Department announced a settlement with seven heavy duty engine diesel manufacturers in what is the largest Clean Air Act enforcement action in history. The manufacturers were charged with violating the Clean Air Act by installing devices that defeat emission controls in an estimated 1.3 million engines. The "defeat devices" used in the affected engines are computer software that alters an engine's pollution control equipment under highway driving conditions. The settlement is expected to prevent 75 million tons of nitrogen oxide (NO_x) air pollution over the next 27 years; 75 million is more than the total U.S. emissions for three years. In addition, the total NO_x emissions from diesel engines will be reduced by one-third as of the year 2003. If the companies' use of defeat devices had not been detected and eliminated, more than 20 million tons of excess NO_x would have been emitted by the year 2005.

Under the settlement, the manufacturers--Caterpillar Inc., Cummins Engine Company, Detroit Diesel Corporation, Mack Trucks, Inc., Navistar International Transportation Corporation, Renault Vehicules Industriels, s.a. and Volvo Truck Corporation, which comprise 95 percent of the U.S. heavy duty diesel engine market--will spend more than one billion dollars and will pay an \$83.4 million civil penalty to settle charges that they illegally poured millions of tons of pollution into the air.

Vertac Superfund Site

In a significant decision affecting the cleanup of hazardous waste sites, the U.S. District Court, Eastern District of Arkansas, ruled that Hercules, Inc. and Uniroyal Chemical, Inc. must reimburse the federal government \$102.9 million for past costs incurred in cleaning up the Vertac Superfund site in Jacksonville, Arkansas. The money will be returned to the Superfund Trust Fund for use in cleaning up other hazardous waste sites across the country. Operations at the Vertac site, one of the worst dioxin contaminated sites in the country, caused widespread contamination of soil, groundwater and surface waters, both on-site and in surrounding residential areas. When the facility closed in 1987, more than 28,000 leaking drums of corrosive, ignitable hazardous wastes were left at the site. EPA incurred approximately \$105 million in cleaning up and incinerating the drummed dioxin wastes as well as overseeing private party remedial action. Hercules and Uniroyal, two defendants who declined to settle, challenged the government's right to recover its costs, arguing that EPA had overstated the potential health hazardous and conducted an excessive cleanup. The court overruled the defendants arguments and awarded the United States summary judgement for the full

amount of the costs incurred to date plus prejudgement interest. In addition, the court awarded the United States a declaratory judgement for future costs, which are estimated at five million dollars.

Compliance Incentive Settlements

Voluntary Compliance Initiative with Pork Producers

During, FY 1998, As part of President Clinton's Clean Water Action Plan, the U.S. Environmental Protection Agency and the National Pork Producers Council (NPPC) negotiated a voluntary compliance program to reduce environmental and public health threats to the nation's waterways from runoff of animal wastes from pork-producing operations. The program was formally announced on November 25, 1998. Polluted runoff from industrial feeding operations is a leading source of water pollution, and EPA and the U.S. Department of Agriculture have announced a joint animal feeding operations draft strategy to control agricultural animal waste runoff. The amount of animal manure and wastewater generated from animal feeding operations can pose risks to water quality and public health. Potential impacts include the absence or low levels of dissolved oxygen in surface water, harmful algal blooms, fish kills and contamination of drinking water from nitrates and pathogens. Excess nutrients in water also may result in outbreaks of microbes such as *Pfiesteria piscicida* found in the Chesapeake Bay and in North Carolina.. The compliance audit program provides an incentive for pork producers to take the initiative to find and correct Clean Water Act violations and prevent discharges to waterways without compromising the ability of EPA or states to enforce the law Under this initiative, participating pork producers will have their operations voluntarily assessed for Clean Water Act violations by certified independent inspectors. Producers who promptly disclose and correct any discovered violations from these audits will receive a much smaller civil penalty than they might otherwise be liable for under the law. The NPPC, a national association representing all state pork producers, plans assessments for more than 10,000 pork production facilities. NPPC developed the assessment program at a cost of \$1.5 million, and will fund the training of independent inspectors and the program's oversight. EPA has provided a \$5 million grant to America's Clean Water Foundation to assist with the assessments.